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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,192	05/07/2001	Andrea Briatore	CM1948M	1427

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EXAMINER	
DELCOTTO, GREGORY R	
ART UNIT	**PAPER NUMBER**
1751	

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/831,192	BRIATORE ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-9 have been canceled. Claims 10-29 are pending. Applicant's amendments and arguments filed 10/1/2003 have been entered.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 7/2/03 have been withdrawn:

None.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

> only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ambuter et al (US 6,083,422).

Ambuter et al teach thickened aqueous beach compositions containing either an alkali metal hypohalite or peroxygen bleach. Compositions containing hypohalite or peroxygen bleaches are particularly difficult to thicken with sufficient stability for commercial value. The addition of a reheology stabilizer minimizes the loss of stability over time and enables compositions of varying bleach and pH level to be obtained. See Abstract. The compositions generally comprise from about 0.1% to 50% of an active alkali metal hypohalite or peroxygen bleach, from about 0.01% to about 10% of a polymeric rheology modifying agent, from about 0.001% to about 10% of a rheology stabilizing agent having the same general formula as recited by the instant claims which acts as a radical scavenger (See column 7, lines 45-65 and column 9, lines 5-20), the balance water, wherein the composition has a pH of from about 2 to about 14. See column 4, lines 15-45. A source of the bleach can be selected from the group of

peroxygen bleaches, most preferably hydrogen peroxide. Such compounds include alkali metal peroxides, alkali metal perborates, percarbonates, etc. See column 5, line 50 to column 6, line 10.

The compositions may contain optional ingredients such as suds suppressors, corrosion inhibitors, fluorescent whitening agents, chelating agents, enzymes, etc. See column 11, lines 40-60. These compositions are useful for a variety of applications, including household, personal care, textile, and industrial applications. See column 4, lines 35-50.

Ambuter et al do not specifically teach a cleaning composition and method of using such a cleaning composition to clean hard surfaces containing an oxidizing agent, a radical scavenger, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition and use such a composition to clean hard surfaces containing an oxidizing agent, a radical scavenger, and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teaching of Ambuter et al suggest a cleaning composition and method of using such a composition to clean hard surfaces containing an oxidizing agent, a radical scavenger, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 10-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/21307 in view of Ambuter et al (US 6,083,422).

'307 teaches a microemulsion comprising a surfactant, an aqueous phase and droplets dispersed in said aqueous phase, said droplets comprising an essential oil or an active thereof, and said droplets having a particle size of less than 100 nanometers, for disinfecting a surface. See Abstract. Typically, the microemulsions comprise from 60% to 99.5% by weight of the total microemulsion of water. See page 14, lines 20-25. Prefered bleaches are peroxygen bleaches, more particularly hydrogen peroxide. Additional peroxygen bleaches include percarbonates, persilicate, perborates, etc. Typically, the compositions contain 0.001% to 15% by weight of said bleach. See page 15, lines 1-30. Additionally, the compositions include up to a level of 5% by weight of a radical scavenger. See page 19k, lines 1-15.

'307 does not specifically teach the specific radical scavenging agents or a composition and method of using such a composition to clean hard surfaces containing an oxidizing agent, a radical scavenger, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a specific radical scavenger as recited by the instant claims in the composition taught by '307, with a reasonable expectation of success, because Ambuter et al teach the use of the specific radical scavenging agents in a similar detergent composition and, further, '307 teaches the use of radical scavengers in general.

Response to Arguments

With respect to Ambuter et al and WO 98/21307, Applicants states that the cited art does not establish a prima facie case of obviousness because it does not teach or sugges all or Applicants' claim limitations nor would such art motivate the skill artisan to do what Applicants have done. Furthermore, Applicant states that Ambuter does not teach the specific radical scavengers recited by the instant claims and that that the cited prior art does not recognize that the radical scavengers as recited by the instant claims were useful in any type of cleaning composition. In response, note that, the Examiner maintains that the teaching of Ambuter et al or the teachings of WO 98/21307 in combination with Ambuter et al clearly suggest the composition as recited by the instant claims. Note that, Ambuter et al n column 7, line 45 to column 9, line 20 teaches radical scavengers which are the same as those recited by the instant claims. Additionally, Ambuter et al teach a table of preferred radical scavengers in which some of those listed are the same as those recited by the instant claims. See column 8, lines 1-30. Furthermore, Ambuter et al teaches that surfactants may be used in the compositions (col. 10, lines 30-69) and several of the examples are drawn to the formulation automatic dishwashing gels which clearly suggests the formulation of cleaning compositions.

Even in the absence of a teaching of surfactants, the Examiner maintains that the compositions taught by Ambuter et al would have the same cleaning properties as the compositions recited by the instant claims because Ambuter et al teach the same components in the same proportions as recited by the instant claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
February 8, 2004